

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

MARTIN CAMPOS-CALDERON,

Defendant.

CASE NO. 8:07CR71

MEMORANDUM AND ORDER

This matter is before the Court on the Report and Recommendation (Filing No. 190) issued by Magistrate Judge Thomas D. Thalken recommending denial of the Defendant's motion pursuant to 18 U.S.C. § 5031 (Filing No. 131). No objections have been filed to the Report and Recommendation as allowed by 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3(a).

The Defendant moved the Court for a hearing to determine the Defendant's age. The Defendant, Martin Campos-Calderon, is charged in Counts I, V and XII of the Indictment. Count I charges a conspiracy to distribute and possess with intent to distribute methamphetamine that occurred from on or about May 1, 1006, through February of 2007. Counts V and XII charge conduct that occurred on or about July 10, 2006, and December 19, 2006, respectively. The Defendant's age is relevant in order to determine whether he should continue to be prosecuted as an adult or as a juvenile with respect to each of these charges. Judge Thalken determined by clear and convincing evidence that the Defendant's date of birth is January 9, 1987.¹ Judge Thalken reached his decision based on the Defendant's birth certificate from the Mexican consulate and oral testimony offered

¹The Defendant attained the age of nineteen on January 9, 2006.

at the evidentiary hearing. Therefore, Judge Thalken recommends that the Defendant's motion be denied.

Notwithstanding the absence of objections, pursuant to 28 U.S.C. § 636(b)(1)(C) and NECrimR 57.3, the Court has conducted a de novo review of the record. The Court has read the transcript. (Filing No. 184.) The Court has also viewed the evidence. (Filing No. 178.) Because Judge fully, carefully, and correctly applied the law to the facts, the Court adopts the Report and Recommendation in its entirety.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation (Filing No. 190) is adopted in its entirety; and
2. The Defendant's motion pursuant to 18 U.S.C. § 5031 (Filing No. 131) is denied.

DATED this 30th day of October, 2007.

BY THE COURT:

s/Laurie Smith Camp
United States District Judge